IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVN.APPLN.NO.348 OF 2006

Ashok Laxman Hattikate ..Applicant

Vs.

State of Maharashtra ..Respondents

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Mr.P.B.Deo advocate for applicant
Mr.K.V.Saste A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : APRIL 9, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State. Perused the record and proceedings.

2. The applicant is the husband of deceased Vidya. Marriage of Vidya with the applicant had taken place on 4.7.1994. After marriage, Vidya went to reside with the applicant. The applicant desired that some employment should be obtained in Sugar Factory for him and if the employment is not obtained, then some money be given to the applicant

so that he can secure a job. Vidya was told that if the job was not obtained or monetary assistance to secure job, was not given, she would not be allowed to co-habit with the applicant. Though the complainant Patangrao Aher tried to secure a job for the applicant he could not succeed. The complainant P.W.2 Patangrao and other prosecution witnesses P.W.3 Baban Desai, P.W.4 Madhukar Khot, P.W.5 Pandharinath Patil and P.W.6 Sampat Lad especially the complainant speak about the illtreatment and harassment to Vidya by the applicant as these demands were not met. She was also illtreated on the ground that she did not cook properly and that she used to use ‘Mishri’. The complainant has clearly stated about Vidya informing him about the illtreatment to her at the hands of applicant. His evidence is corroborated by statement of P.W.Nos. 2 to 6.

3. After going through all the evidence, the learned 7th Addl. Sessions Judge Satara convicted the applicant under Sections 306 and 498-A of IPC by judgment and order dated 2.7.1999. For offence under Section 498-A of IPC, he was sentenced to R.I. for three years and to pay a fine of Rs.500/-

i/d S.I. for three months and for the offence under Section 306 of IPC, he was sentenced to R.I. for five years and to pay a fine of Rs.1,000/- i/d S.I. for six months.

4. Being aggrieved by the judgment and order dated 2.7.1999, the applicant preferred criminal appeal before the learned Sessions Court at Satara. The said appeal came to be dismissed by order dated 27.9.2005.

5. Both the Courts have carefully considered the evidence of the complainant and that of P.Ws. 3 to 6. The complainant has deposed about his repeated visits to village Mundhe where the applicant and Vidya were residing. According to the complainant, during his first visit two months after marriage of Vidya, the accused asked him either to secure job for him or to pay money so as to that he could secure job for himself. In the subsequent visits of the complainant also, the same demand was put forth by accused person. The evidence of the complainant reveals that they met one Patil of Kale in presence of accused to attempt to secure job for accused Ashok. It is specifically stated by

complainant Patarngao that Vidya during her stay at Shirte, disclosed to him and his wife about physical and mental torture to her by the accused on account of non-fulfillment of their demand. She had also disclosed torture to her on other grounds that she was not well versed in cooking, she was in habit of applying Mishri and she was illiterate. Accused used to starve her and they used to give her stale food and used to assault her. The other witnesses also testified that Vidya disclosed to them when she had been to Shirte about illtreatment to her at the hands of accused. The evidence of all the witnesses is cogent and consistent.

6. The learned advocate for the applicant has submitted that all these witnesses are interested witnesses and no independent witness or witnesses from the vicinity where the applicant was residing, has been examined by the prosecution. He submitted that it would not be safe to rely on the testimony of interested witnesses. As far as this aspect is concerned, it is well known that in cases of this nature, no witness would come forward from the side of the husband to give evidence in support of the prosecution. Moreover, no person from the vicinity

of the husband's residence would come forward to implicate the husband as neighbours are generally reluctant to get involved in such matters in any manner. Hence, no fault can be found with the prosecution for not examining any independent witness from the vicinity.

7. The learned advocate for the applicant has further submitted that it cannot be believed that Vidya was illtreated on the ground that Vidya was illiterate as the applicant himself was also not highly educated. In fact the applicant was educated only upto 9th standard and in such case, it would not be possible that he would illtreat his wife on the ground of illiteracy. As far as providing employment to the applicant is concerned, he submitted that as the applicant was educated only upto 9th standard, it would not have been possible to obtain employment for the applicant. Hence, this story of the complainant that demand was made by the applicant for job or money to secure job appears to be false. He further submitted that it is the case of the complainant that money was demanded from him to secure employment for the applicant. However, as far as

this aspect is concerned, the actual amount of money or specific sum of money is not mentioned by the complainant and complainant has only stated vaguely that demand was made by the applicant for money to secure job for the applicant. It is true that no specific sum of money is mentioned by the complainant but that by itself would not falsify the evidence of the complainant wherein he has stated that demand was made for job or money to secure job for the applicant in case, the complainant fails to provide job to the applicant. The complainant and other witnesses have clearly stated about the demand and harassment to Vidya on that ground. It is an admitted fact that the dead body of Vidya was found floating in the well on 6.9.1995. It is the prosecution case that Vidya committed suicide on account of illtreatment and harassment by the accused.

8. It was contended by Mr.Deo that Vidya fell into the well accidently and it was not a case of suicide. As far as this aspect is concerned, it is seen that parapet wall to the said well was of the height of 1.1/2 to 2 feet from the ground level. Moreover, there are no injuries to Vidya nor a

single scratch was noticed on her person which should have occurred if Vidya had accidentally fallen into the well. All these facts including the presence of parapet wall clearly show that it was clearly a case of suicide. The evidence of the complainant and other witnesses relating to demand and harassment, has not been shaken. In this view of the matter, the trial Judge has rightly convicted the applicant and the appeal has rightly been dismissed by the learned Sessions Judge. I find no illegality or impropriety in the said orders. Hence, revision is dismissed. The applicant to surrender forthwith.

[Smt. V.K.Tahilramani, J.]